

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

RYDER TRUCK RENTAL, INC.

*Plaintiff*

v.

STATE AUTOMOBILE MUTUAL  
INSURANCE COMPANY AKA STATE  
AUTO INSURANCE COMPANIES

*Defendant*

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO.

1:16-cv-476

**NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES STATE AUTOMOBILE MUTUAL INSURANCE COMPANY (hereinafter “State Auto” or “Defendant”), and pursuant to 28 U.S.C. §§ 1332(a), 1441, and 1446(a), files this Notice of Removal of a civil action filed in the 200<sup>th</sup> Judicial District Court of Travis County, Texas, entitled *Ryder Truck Rental, Inc. v. State Automobile Mutual Insurance Company aka State Auto Insurance Companies*, Cause No. D-1-GN-16-001023, and in support thereof, would respectfully show the Court as follows:

**I.**

Plaintiff Ryder Truck Rental, Inc. (“Plaintiff” or “Ryder”) filed the above action on March 9, 2016 in state court. The citation and petition were served on State Auto on March 16, 2016. Attached to this Notice as Exhibit 1 is an Appendix/Index of State Court Pleadings. True and correct copies of the state court docket, as well as the petition, citation, and answer, which constitute all process, pleadings, and orders served in the action, are appended to the Appendix/Index of State Court Pleadings as Exhibits A through D. This Notice of Removal is

filed within one year of commencement of this action and within 30 days of Defendant's receipt of the petition and is therefore timely under 28 U.S.C. § 1446(b).

## II.

The district courts of the United States have original jurisdiction over this action based on diversity of citizenship among the parties under 28 U.S.C. § 1332, in that every Defendant is now and was at the time the action commenced diverse in citizenship from Plaintiff. This Court has original jurisdiction as the federal district court for the district and division in which the action is pending, pursuant to 28 U.S.C. § 124(a)(2). Defendant is not and was not at the time the action commenced a citizen of the State of Texas.

Plaintiff's Original Petition, attached hereto as Exhibit B to Exhibit 1, states that Plaintiff is a Delaware corporation with a principal place of business in Florida, and is "licensed to do business in the State of Texas." Ex. B to Ex. 1 at 1. Plaintiff Ryder was at the time the action commenced and is now a citizen of the States of Delaware and Florida and of no other state.

Plaintiff's Original Petition further states that Defendant State Auto "is a corporation existing under the laws of the State of Ohio with a place of business [in] Austin, Texas." Ex. B to Ex. 1 at 1 (emphasis added). State Auto was at the time the action commenced and is now a citizen of Ohio, with its place of incorporation and principal place of business in Ohio, and of no other state.

The amount in controversy exceeds, exclusive of interest and costs, the sum of \$75,000, as required by 28 U.S.C. § 1332(a). Plaintiff's Original Petition states a claim against Defendant in the amount of \$80,164.70. Ex. B to Ex. 1 at 2-4.

**III.**

Removal of this action is proper under 28 U.S.C. § 1441 because it is a civil action brought in state court and the federal district courts have original jurisdiction over the subject matter under 28 U.S.C. § 1332, as Plaintiff and Defendant are diverse in citizenship.

**IV.**

Defendant did demand a trial by jury in state court.

WHEREFORE, PREMISES CONSIDERED, Defendant STATE AUTOMOBILE MUTUAL INSURANCE COMPANY, pursuant to 28 U.S.C. §§ 1332 and 1441 and in conformance with the requirements set forth in 28 U.S.C. § 1446, remove this action for trial from the 200<sup>th</sup> Judicial District Court of Travis County, Texas to this Court. The clerk of the 200<sup>th</sup> Judicial District Court of Travis County, Texas has been provided with notice of this removal.

Respectfully submitted,

**NAMAN HOWELL SMITH & LEE, PLLC**

/s/ Charles B. Mitchell, Jr.

CHARLES B. MITCHELL, JR.

State Bar No. 14207000

Federal ID No.: 16627

LINDSAY P. DANIEL

State Bar No. 24082894

405 Fort Worth Club Building

306 West 7<sup>th</sup> Street

Fort Worth, Texas 76102-4911

Telephone: (817) 509-2040

Facsimile: (817) 509-2060

Email: [Charles.mitchell@namanhowell.com](mailto:Charles.mitchell@namanhowell.com)

Email: [LDaniel@namanhowell.com](mailto:LDaniel@namanhowell.com)

**ATTORNEYS FOR DEFENDANT  
STATE AUTOMOBILE MUTUAL  
INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

I certify that on this the 14<sup>th</sup> day of April, 2016, a true and correct copy of the foregoing has been served upon all counsel of record in this action, in accordance with the Federal Rules of Civil Procedure by ECF Filing, facsimile, and/or certified mail, return receipt requested properly addressed to:

Macon D. Strother  
The Strother Law Firm  
2990 Richmond Ave., Suite 213  
Houston, TX 77098  
[mstrother@strotherlawfirm.com](mailto:mstrother@strotherlawfirm.com)

/s/ Charles B. Mitchell, Jr.  
CHARLES B. MITCHELL, JR.

# Exhibit 1

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**RYDER TRUCK RENTAL, INC.**

*Plaintiff*

**v.**

**STATE AUTOMOBILE MUTUAL  
INSURANCE COMPANY AKA STATE  
AUTO INSURANCE COMPANIES**

*Defendant*

§  
§  
§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION NO. \_\_\_\_\_**

**APPENDIX/INDEX OF STATE COURT PLEADINGS**

**NOTICE OF REMOVAL**

|    |   |          |
|----|---|----------|
| A. | Travis County District Court Civil Docket Sheet and case summary of all pleadings and documents filed in Cause No. D-1-GN-16-001023                       |          |
| B. | Plaintiffs' Original Petition   | 3/9/2016 |
| C. | Executed return Citation regarding execution of service on Defendant State Auto Property and Casualty Insurance Company evidencing service on 12/29/14    | 3/16/16  |
| D. | Defendant State Auto Property and Casualty Insurance Company's Original Answer, Special Denials, Special Exceptions, Affirmative Defenses and Jury Demand | 4/8/16   |



# Exhibit A

**District Clerk - AARO - Attorney Access to Records Online****Details**

Updated : Wednesday, April 13, 2016 5:09:55 AM

**Cause Number**

D-1-GN-16-001023

[Request Documents \(/aaro/Content/record\\_search\\_](/aaro/Content/record_search_)**Style**

RYDER TRUCK V STATE AUTOMOBILE

[New Search \(/aaro/\)](/aaro/)**Filed Date**

3/9/2016

**Court**

200

**Type**

BREACH OF CONTRACT (GEN LIT )

**Case Status**

PENDING

**Action/Offense****Hearing Date****Attorney**MITCHELL CHARLES  
BENNETT**Type**

DEFENDANT

**Party - Full/Business**

STATE AUTOMOBILE MUTUAL INSURANCE COMPANY

**Party - Person**

STROTHER MACON D

PLAINTIFF

RYDER TRUCK RENTAL INC

| Date      | Court | Party | Description                | Category   | Pages |  |
|-----------|-------|-------|----------------------------|------------|-------|--|
| 4/8/2016  | 200   | DF    | ORIGINAL ANSWER            | ANS-RESP   | 3     | <a href="/aaro/Default/GetPdf?barCodeId=4526857">Download (/aaro/Default/GetPdf?barCodeId=4526857)</a> |
| 3/23/2016 | 200   | DF    | EXECUTED SERVICE           | SRVPROCESS | 2     | <a href="/aaro/Default/GetPdf?barCodeId=4497689">Download (/aaro/Default/GetPdf?barCodeId=4497689)</a> |
| 3/10/2016 | 200   | DF    | ISS:CITATION               | ISSUANCE   | 0     | PDF not available  |
| 3/9/2016  | 200   | PL    | EXPEDITE ORIG PET RULE 169 | PET-PL     | 16    | <a href="/aaro/Default/GetPdf?barCodeId=4477491">Download (/aaro/Default/GetPdf?barCodeId=4477491)</a> |

[Request Documents \(/aaro/Content/record\\_search\\_fillable.pdf\)](/aaro/Content/record_search_fillable.pdf)[New Search \(/aaro/\)](/aaro/)



# **Exhibit B**

3/9/2016 10:11:07 AM

Velva L. Price  
District Clerk  
Travis County  
D-1-GN-16-001023  
Marco Rubio

CAUSE NO. D-1-GN-16-001023

**RYDER TRUCK RENTAL, INC.**

**PLAINTIFF,**

**V.**

**STATE AUTOMOBILE MUTUAL  
INSURANCE COMPANY AKA STATE  
AUTO INSURANCE COMPANIES**

**DEFENDANT.**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**IN THE DISTRICT COURT AT LAW**

**OF TRAVIS COUNTY, TEXAS**

**200th JUDICIAL DISTRICT**

**PLAINTIFF'S ORIGINAL PETITION**

Plaintiff Truck Rental, Inc. ("Plaintiff"), files its Original Petition against State Automobile Mutual Insurance Company aka State Auto Insurance Companies (hereinafter referred to as "Defendant"):

1. Discovery is intended to be conducted as a Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

**PARTIES**

2. Plaintiff is a corporation duly existing under the laws of the State of Delaware with a principal place of business at 11690 Northwest 105th Street, Miami, Florida 33178. Plaintiff is licensed to do business in the State of Texas.

3. Defendant is a corporation, organized and existing under the laws of the State of Ohio, with a place of business at 5918 West Courtyard Drive, Suite 100, Austin, Texas 78730.

**CAUSES OF ACTION**

4. Plaintiff incorporates by reference all facts stated above. Plaintiff entered into Truck Rental Agreement ("Rental Agreement") with Venture Logistics, Inc. ("Venture") pursuant to which

Plaintiff rented Venture a certain vehicle. A true and correct copy of the Rental Agreement is attached as **Exhibit A** and incorporated by reference.

5. Pursuant to the Rental Agreement, Venture entered into certain agreements with Defendant to obtain and have bound proper insurance coverage for the vehicles rented from Plaintiff. Such coverage was to include automobile physical damage insurance coverage for the vehicle. Plaintiff is an additional loss payee under Venture's insurance policy with Defendant. A true and correct copy of the Certificate of Liability Insurance ("COI") is attached hereto as **Exhibit B** and incorporated by reference.

6. On or about May 23, 2014, Plaintiff's vehicle number 449161, rented by Venture, was involved in an accident wherein the vehicle was damaged. Plaintiff filed a claim for the payment of damages to the vehicle to Defendant in the amount of \$80,164.70.

7. Defendant failed and refused to pay the claim for damage to Venture's vehicle as required by the COI.

8. Despite demands by Plaintiff upon Defendant for payment, Defendant refused, continues to refuse and has failed to pay the amounts owed. Plaintiff has been damaged in the amount of \$80,164.70, plus interest thereon, as shown in the itemized and verified Statement of Account, which is attached as **Exhibit C** and incorporated by reference.

9. Plaintiff has applied all just and lawful offsets, payments and credits, if any, to Defendant's account and amount owing.

10. Plaintiff has been required to retain the services of an attorney to commence this action and is entitled to attorney's fees and costs.

**BREACH OF INSURANCE CONTRACT**

11. Plaintiff incorporates by reference all facts stated above. There is a valid and existing insurance contract between Plaintiff, as additional loss payee, and Defendant, as insurer.

12. Plaintiff performed under the contract. Defendant breached the contract by refusing to properly compensate Plaintiff. Defendant failed to pay and therefore breached the agreement, and Plaintiff has suffered damages in the amount of \$80,164.70.

**BREACH OF IMPLIED COVENANT OF  
GOOD FAITH AND FAIR DEALING**

13. Plaintiff incorporates by reference all facts stated above. There is implied in every contract a covenant of good faith and fair dealing.

14. Plaintiff and Defendant entered into a valid and existing insurance agreement.

15. Defendant owed Plaintiff a duty of good faith and fair dealing.

16. Defendant breached its duty of good faith and fair dealing by refusing to properly compensate Plaintiff. Such conduct on the part of Defendant was willful, wanton, malicious, wrongful and otherwise in disregard to Plaintiff's rights.

17. As a direct and proximate result of the breach of implied covenant of good faith and fair dealing by Defendant, Plaintiff has suffered damages in the amount of \$80,164.70.

**CONDITIONS PRECEDENT**

18. Pursuant to Rule 54 of the TEXAS RULES OF CIVIL PROCEDURE, all conditions precedent to Plaintiff's recovery and other relief requested herein have been performed or have occurred.



**ATTORNEY'S FEES**

19. By reason of the foregoing, Plaintiff has been compelled to employ the services of the undersigned counsel and firm and has agreed to reasonable fees for their services. Plaintiff is entitled to a judgment for said attorney's fees and, in this respect, alleges its compliance with all other prerequisites established by law. Additionally, this case is based in whole or in part upon an oral or written contract, sworn account and for services rendered. Under TEX.CIV.PRAC&REM.CODE '38.001, Plaintiff seeks to recover its reasonable attorney's fees from Defendant and attorney's fees for all necessary appeals to other courts.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays Defendant, be cited to appear and file answer, and that on final hearing Plaintiff has judgment of and from Defendant in the amount of \$80,164.70, together with interest thereon at the maximum rate allowed by law, reasonable attorney's fees including but not limited to attorney's fees for an appeal to the Court of Civil Appeals and the Texas Supreme Court, costs of court, and such other and further relief to which Plaintiff may show itself to be justly entitled.

Dated: 3/8/16

Respectfully submitted,

THE STROTHER LAW FIRM

/s/ Macon D. Strother

---

MACON D. STROTHER

State Bar No. 19420000

2990 Richmond Ave., Suite 213

Houston, Texas 77098

(713) 557-9238 (Telephone)

[mstrother@strotherlawfirm.com](mailto:mstrother@strotherlawfirm.com)

ATTORNEY FOR PLAINTIFF

OF COUNSEL:

John T. Siegler

ASK, LLP

2600 Eagan Woods Dr., Suite 400

Eagan, MN 55121

Telephone: 651-406-9665

Telecopier: 651-406-9676



# **EXHIBIT A**



CUSTOMER REFERENCE NUMBER: 0788200328566

RENTAL AGREEMENT NUMBER : 1677574

CLIENT ACCOUNT NUMBER: 282868

| Ryder Location/Contact Information  | Hours of Operation and additional information   |
|---|---|
| <b>Ryder Truck Rental and Leasing</b><br>1220 POLK AVENUE<br>NASHVILLE, TENNESSEE, 37210<br>Phone Number: 6152541969<br>Sales Rep : Christopher Rittenhour<br>Area Manager : PHILLIP MOIX<br>Phillip_Moix@ryder.com | Mon - Fri: 8:00 AM-5:00 PM<br>Saturday : 8:00 AM-12:00 AM<br>Sunday : Closed<br>24/7 Roadside Assistance: 866-477-0438<br>Customer Service : 1-800-847-9337 |



\*\* WITH FUEL FUEL 14 \*\* ACTIVITY DATE : 05/21/14  
 \*\* CUST REF #: 0788200328566  
 \*\* VEHICLE NO: 449161

| CUSTOMER INFORMATION  | DRIVER INFORMATION   | DATE/TIME/MILEAGE INFORMATION                                       |
|---|--|---|
| <b>VENTURE LOGISTICS INC</b><br>1101 HARDING CT<br>INDIANAPOLIS, IN<br>46217-9531 | 3177071107<br>CONTACT: ACCOUNTS PAYABLE<br>P.O. No.: TN-2920<br>Ord By: TYLER DIRICO/PAT | DUE: 05/20/14 06:00<br>OUT: 05/21/14 17:28<br>ODOM OUT: 2 2 5 4 4 4 |

| VEHICLE DESCRIPTION:                         | RATES AND CHARGES: *** WITH FUEL *** | TOTAL AMT |
|--|--------------------------------------|-----------|
| TACS PREMIUM/CONDO                           | Daily Rental \$ 136.05/D = \$        |           |
| INTL PRO LP687                               | Weekly Rental \$ 894.75/W = \$       |           |
| License # C6599HY                            | Mileage Rate \$ 0.1100/M = \$        |           |
| State: TN                                    | Sub-Total Rental = \$                |           |
| GCM/GVM: 80000 lbs                           | Emission Fee \$ 6.00/D = \$          |           |
|  | (*) Sales Tax \$ 9.254 = \$          |           |
| ** Special Rate: No Other Discounts Apply ** |                                      |           |
|  | TOTAL RENTAL CHARGES = \$ 0.00       |           |
|  | Waste Dsp.-Supplies \$ 49.00 = \$    |           |

|                              |
|------------------------------|
| Name: <u>Tim Wright</u>      |
| DL #: <u>0713 46382</u>      |
| State: <u>TN</u>             |
| Expiration: <u>10-4-2014</u> |
| S.S. #: <u>222-44-7196</u>   |
| DOB: <u>10-8-55</u>          |

\* LIABILITY PROTECTION - Customer elects to provide Liability Protection as specified in Paragraph 5.D. of this Agreement. (RCAR PARA. 5.D.)  
 \* Ryder is required by law to report the miles/kms operated and fuel purchased in each state (Province) for this rental vehicle. You agree to submit to Ryder when you return this rental vehicle: (i) trip records for all miles/kms operated and (ii) fuel tickets for all fuel purchased. You agree to pay Ryder a surcharge of \$100,000 per mile/km for each mile/km you fail to properly report.  
 \* This lessee cooperates with all federal, state, and local law enforcement officials nationwide to provide the identity of Customers who operate this rental vehicle.  
 \* The vehicle shall not be operated by anyone other than the Customer, the Customer's employees, or Customer's employer. All driver's must be safely checked by Ryder before operating the vehicle. If Customer changes driver during rental period, the Customer must arrange for Ryder to safely check the new driver before the new driver is permitted to operate the vehicle. The vehicle shall be used by the Customer only in the normal course of its business, and Customer as driver of the vehicle shall in no event be or be deemed the agent, servant or employee of Ryder in any manner or for any purpose what so ever.  
 \* Customer is totally responsible for all loss or damage to the vehicle. (RCAR Para. 5 & 7).  
 \* I have read, understand and hereby agree to the terms and conditions on both side of this Agreement, and I agree to pay the charges for the options I have selected.  
 \* Customer acknowledges that the vehicle(s) contains technology that is compliant with 2007 or 2010 emissions standards. Ryder has provided Customer with the required documentation concerning the periodic regeneration required in accordance with manufacturer's requirements. When a light requiring regeneration required is illuminated,

|   |  |
|---|--|
| Signature: <u>[Signature]</u><br>Cargo Contents : FREIGHT<br>Manual Reference Number : 0<br>USDOT Number : 911759 | Signature: <u>[Signature]</u><br>Truck rental and title instructions provided by R. for record<br>Corrections#: 00<br>Intrastate - No Hazardous Material |
|---|--|

Additional Terms and Conditions on Other Side - Please Read Carefully  
 Thank you for doing business with Ryder!

V214012101



RnT&amp;C (10/13)

# **EXHIBIT B**



MAY-06-2014 10:46 From: S...7726109

Page: 2/2

Date: 5/6/2014 Time: 10:40 AM To: 5137726109 M J Insurance 317-805-7500 Page: 02

Client#: 7475

VENTLOG

ACORD

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/05/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|   |   |
|---|---|
| <b>PRODUCER</b><br>MJ Insurance, Inc.<br>PO Box 50435<br>Indianapolis, IN 46250-0435<br>317 805-7500<br><br><b>INSURED</b><br>Venture Logistics, Inc.<br>Augusta Equipment Leasing, LLC<br>PO Box 78008<br>Indianapolis, IN 46268 | <b>CONTACT</b><br>NAME: Marty Prevost<br>PHONE: 317 805-7630<br>(Cell, No, Ext)<br>E-MAIL: marty.prevost@mjinsurance.com<br>ADDRESS:<br><br><b>INSURER(S) AFFORDING COVERAGE</b><br>INSURER A: Harleysville Worcester Ins 26182<br>INSURER B: State Automobile Mutual Ins 25135<br>INSURER C:<br>INSURER D:<br>INSURER E:<br>INSURER F: |
|---|---|

| COVERAGES  | CERTIFICATE NUMBER | REVISION NUMBER  |
|--|--------------------|--|
| THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.  |                    |  |
| <b>A GENERAL LIABILITY</b><br><input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY<br>CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR<br><br>GENT. AGGREGATE LIMIT APPLIES PER<br>POLICY <input type="checkbox"/> PRO. <input type="checkbox"/> LOC.   | MPA00000024007B    | 11/01/2013 11/01/2014<br>EACH OCCURRENCE \$1,000,000<br>DAMAGE TO RENTED EQUIPMENT (Per occurrence) \$500,000<br>MED. EXP. (Any one person) \$15,000<br>PERSONAL & ADJ. INJURY \$1,000,000<br>GENERAL AGGREGATE \$2,000,000<br>PRODUCTS - COMP/OP AGG. \$2,000,000   |
| <b>B AUTOMOBILE LIABILITY</b><br><input checked="" type="checkbox"/> ANY AUTO<br><input checked="" type="checkbox"/> ALL OWNED AUTOS<br><input checked="" type="checkbox"/> HIRE/AUTO<br>SCHEDULED AUTOS<br><input checked="" type="checkbox"/> NON-OWNED AUTOS<br><br>UMBRELLA LIAB. <input type="checkbox"/> OCCUR<br>EXCESS LIAB. <input type="checkbox"/> CLAIMS-MADE<br>DED. RETENTION \$<br>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANY PROPRIETOR/SHARING/EXECUTIVE OFFICER/OWNER EXCLUDED? <input type="checkbox"/> Y/N<br>(Mandatory in NH)<br>If yes, describe under<br>DESCRIPTION OF OPERATIONS below | BAP233695702       | 05/01/2014 06/01/2015<br>OWNED SINGLE LIMIT (Per occurrence) \$1,000,000<br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per occurrence) \$<br>UMBRELLA LIAB. <input type="checkbox"/> EACH OCCURRENCE \$<br>UMBRELLA LIAB. <input type="checkbox"/> AGGREGATE \$<br>DED. RETENTION \$<br>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANY PROPRIETOR/SHARING/EXECUTIVE OFFICER/OWNER EXCLUDED? <input type="checkbox"/> Y/N<br>(Mandatory in NH)<br>If yes, describe under<br>DESCRIPTION OF OPERATIONS below |
| <b>B TRUCKERS PHYSICAL DAMAGE</b>  | BAP233695702       | 05/01/2014 05/01/2015<br>COMP/COLL   |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101. Additional Remarks Schedule 11 more space is required)

The Certificate Holder and others as defined in the written agreement and the Auto Liability and Physical Damage coverage additional Insured-Lessor and Loss Payee Endorsement CA2001 03 06 are included as additional Insured-Lessor and loss payee subject to the terms, conditions and exclusions on the policy.

COMP/COLL DEDUCTIBLE: \$2,500  
 (See Attached Descriptions)

# **EXHIBIT C**



Ryder Truck Rental Inc

8/28/2015

Page 1



Ryder Truck Rental, Inc.  
6000 Windward Parkway  
Alpharetta, GA 30005

August 28, 2015

State Auto Insurance Co  
518 E Broad Street  
Columbus, OH 43215

| Invoice Date | Invoice Number | Invoice Amount |
|--------------|----------------|----------------|
| 01/30/15     | 3090485366     | \$ 80,164.70   |
| Total        |                | \$ 80,164.70   |



# Invoice

January 30, 2015

Page 1



3090-035699

VENTURE LOGISTICS INC  
 ACCOUNTS PAYABLE  
 1101 HARDING CT  
 INDIANAPOLIS, IN. 46217-9531

Invoice number: 485366  
 Customer number: 00716-282868  
 District number: 3090  
 NASHVILLE

YOU CAN GO GREEN  
 RIGHT NOW.... GET  
 PAPERLESS INVOICES  
 AT RYDER.COM/INVOICE

## Payment due 02/09/15

Remit to:  
 Ryder Transportation Services  
 P.O. BOX 96723  
 Chicago, IL 60693-6723  
 Phone: 800-947-9337  
 Please indicate the Invoice number 485366 on your remittance

|                  |                    |
|------------------|--------------------|
| <b>Total due</b> | <b>\$84,264.70</b> |
|------------------|--------------------|

## Summary of charges

|          | Vehicle              | Other*    | Total              |
|----------|----------------------|-----------|--------------------|
| Tractors | 449161               | 84,264.70 | 84,264.70          |
|          | Traotor total        | 84,264.70 | 84,264.70          |
|          | <b>Total charges</b> | 84,264.70 | <b>\$84,264.70</b> |

\* Other may include accident charges, service and repairs, accessory charges, customer vehicle fuel, miscellaneous charges, credits, interstate fuel tax and estimated fuel

Parts, labor and outside services are billed per Ryder's current physical damage procedures.

## News from Ryder

Please send all non payment and address change information to:

Ryder Shared Service Center - Customer Care  
 6000 Windward Parkway  
 Alpharetta, Ga 30005

Ryder reports monthly to several credit reporting agencies.

Thank you for your business.

VENTURE LOGISTICS INC  
January 30, 2015

Page 3  
Invoice 485366  
District 3090

**449161****TACS PREMIUM/CONDO****Reference - Accident**

Accident number: 000140066  
Accident date: 05/23/14

Physical damage deductible 84,264.70

*To invoice you for rental unit 449161 that caught fire and burned  
on 05/23/14.  
00395 939-00 rpm*

**Total accident charges \$84,264.70**

**Total vehicle charge \$84,264.70**

***Thank you for doing business with Ryder!***

# Exhibit C

3/23/2016 1:32:59 AM

Velva L. Price  
District Clerk  
Travis County  
D-1-GN-16-001023  
Terri Juarez

C I T A T I O N  
T H E S T A T E O F T E X A S  
CAUSE NO. D-1-GN-16-001023

RYDER TRUCK RENTAL, INC.

, Plaintiff

vs.

STATE AUTOMOBILE MUTUAL INSURANCE COMPANY A/K/A STATE AUTO INSURANCE COMPANIES

, Defendant

TO: STATE AUTOMOBILE MUTUAL INSURANCE COMPANY A/K/A STATE AUTO INSURANCE COMPANIES  
5918 WEST COURTYARD DRIVE, SUITE 100  
AUSTIN, TEXAS 78730

Defendant, in the above styled and numbered cause:

**YOU HAVE BEEN SUED.** You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Attached is a copy of the PLAINTIFF'S ORIGINAL PETITION of the PLAINTIFF in the above styled and numbered cause, which was filed on MARCH 9, 2016 in the 200TH JUDICIAL DISTRICT COURT of Travis County, Austin, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at office, March 10, 2016.

REQUESTED BY:

D STROTHER MACON  
2290 RICHMOND AVE., SUITE 213  
HOUSTON, TX 77098  
BUSINESS PHONE: (713) 557-9238  
FAX:



*[Signature]*  
Velva L. Price  
Travis County District Clerk  
Travis County Courthouse  
1000 Guadalupe, P.O. Box 679003 (78767)  
Austin, TX 78701

PREPARED BY: RUBIO MARCO

R E T U R N

Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and executed at \_\_\_\_\_ within the County of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., by delivering to the within named \_\_\_\_\_, each in person, a true copy of this citation together with the PLAINTIFF'S ORIGINAL PETITION accompanying pleading, having first attached such copy of such citation to such copy of pleading and endorsed on such copy of citation the date of delivery.

Service Fee: \$ \_\_\_\_\_

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Sheriff / Constable / Authorized Person

By:

**SEE ATTACHED**

Printed Name of Server

**AFFIDAVIT**

Notary Public, THE STATE OF TEXAS

County, Texas

D-1-GN-16-001023

SERVICE FEE NOT PAID

P01 - 000038503

☒ Original

☒ Service Copy



CAUSE NO. D-1-GN-16-001023

Ryder Truck Rental, Inc.

§

IN THE DISTRICT COURT AT LAW

§

Plaintiff,

§

VS.

§

OF TRAVIS COUNTY, TEXAS

§

State Automobile Mutual Insurance Company aka

§

State Auto Insurance Companies

§

Defendant.

200TH JUDICIAL DISTRICT

AFFIDAVIT OF SERVICE

On this day personally appeared Corrina Hart who, being by me duly sworn, deposed and said:

"The following came to hand on MARCH 16, 2016 AT 4:00 PM,

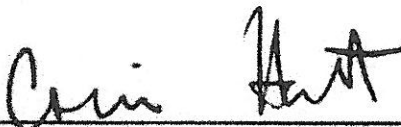
D-1-GN-16-001023 PETITION.PDF, D-1-GN-16-001023 CITATION.PDF,

and was executed at 211 E. 7th St. #620, Austin, TX 78701 within the county of TRAVIS at 10:55 AM on Thu, Mar 17, 2016, by delivering a true copy to the within named

STATE AUTOMOBILE MUTUAL INSURANCE COMPANY AKA STATE AUTO INSURANCE COMPANIES BY SERVING ITS REGISTERED AGENT, CT CORPORATION SYSTEM

in person, having first endorsed the date of delivery on same.

I am a person over eighteen (18) years of age and I am competent to make this affidavit. I am a resident of the State of Texas. I am familiar with the Texas Rules of Civil Procedure as they apply to service of Process. I am not a party to this suit nor related or affiliated with any herein, and have no interest in the outcome of the suit. I have never been convicted of a felony or of a misdemeanor involving moral turpitude. I have personal knowledge of the facts stated herein and they are true and correct."

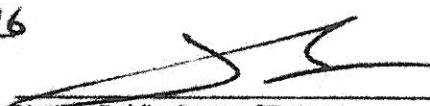
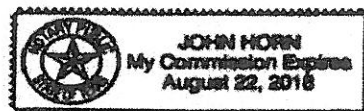


Corrina Hart

SCH10838 EXP 03/31/2017

BEFORE ME, a Notary Public, on this day personally appeared Corrina Hart, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are within his or her personal knowledge and are true and correct.

SUBSCRIBED AND SWORN TO ME ON 03/17/2016

  
Notary Public, State of Texas



# Exhibit D

4/8/2016 4:55:50 PM

Velva L. Price  
District Clerk  
Travis County  
D-1-GN-16-001023  
Jonathan Sanders

**CAUSE NO. D-1-GN-16-001023**

|                                    |          |   |
|------------------------------------|----------|---|
| <b>RYDER TRUCK RENTAL, INC.</b>    | <b>§</b> | <b>IN THE DISTRICT COURT</b>              |
| <b>Plaintiff,</b>                  | <b>§</b> |   |
|                                    | <b>§</b> |   |
| <b>v.</b>                          | <b>§</b> | <b>200<sup>th</sup> JUDICIAL DISTRICT</b> |
|                                    | <b>§</b> |   |
| <b>STATE AUTOMOBILE MUTUAL</b>     | <b>§</b> |   |
| <b>INSURANCE COMPANY AKA STATE</b> | <b>§</b> |   |
| <b>AUTO INSURANCE COMPANIES</b>    | <b>§</b> | <b>TRAVIS COUNTY, TEXAS</b>               |

**ORIGINAL ANSWER OF DEFENDANT STATE AUTOMOBILE**  
**MUTUAL INSURANCE COMPANY**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW State Automobile Mutual Insurance Company ("Defendant"), Defendant in the above referenced and numbered cause, and files its Original Answer to Plaintiff's Original Petition, and in support thereof, would respectfully show the Court as follows:

**I.**  
**GENERAL DENIAL**

Defendant hereby enters a general denial, as is permitted by Rule 92 of the Texas Rules of Civil Procedure, and requests that Plaintiff be required to prove, by a preponderance of the evidence, the charges and allegations which Plaintiff has made against Defendant, as is required by the law and the Constitution of the State of Texas.

**II.**  
**SPECIFIC DENIALS**

Defendant expressly denies that Plaintiff has complied with all conditions precedent for the bringing of this action as contained in the policy of insurance sued upon.

**III.  
AFFIRMATIVE DEFENSES**

Defendant further states by way of affirmative defense, if such be necessary, the terms and conditions of the policy.

Defendant further states by way of affirmative defense, if such be necessary, that Defendant did not breach the insurance contract.

Defendant further states by way of affirmative defense, if such be necessary, Defendant is not liable to Plaintiff because the conditions precedent for recovery under the subject policy have not been satisfied.

**IV.  
JURY DEMAND**

Defendant hereby demands a trial by jury.

**V.  
PRAYER**

WHEREFORE, PREMISES CONSIDERED, for all of the reasons set forth above, Defendant prays that:

1. It be dismissed from this action and discharged from all liability to Plaintiff;
2. It recover its costs of Court expended in its behalf; and
3. For such other and further relief to which it may be justly entitled.

Respectfully submitted,

**NAMAN HOWELL SMITH & LEE, PLLC**

/s/ Charles B. Mitchell, Jr.  
CHARLES B. MITCHELL, JR.  
State Bar No. 14207000  
Federal ID No.: 16627  
LINDSAY P. DANIEL  
State Bar No. 24082894  
405 Fort Worth Club Building  
306 West 7<sup>th</sup> Street  
Fort Worth, Texas 76102-4911  
Telephone: (817) 509-2040  
Facsimile: (817) 509-2060  
Email: [Charles.mitchell@namanhowell.com](mailto:Charles.mitchell@namanhowell.com)  
Email: [LDaniel@namanhowell.com](mailto:LDaniel@namanhowell.com)

**ATTORNEYS FOR DEFENDANT  
STATE AUTOMOBILE MUTUAL  
INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above and foregoing was served upon all counsel of record in accordance with the Texas Rules of Civil Procedure, on the 8th day of April, 2016.

***Via E-Service***

Macon D. Strother  
The Strother Law Firm  
2990 Richmond Ave., Suite 213  
Houston, TX 77098  
[mstrother@strotherlawfirm.com](mailto:mstrother@strotherlawfirm.com)

/s/ Charles B. Mitchell, Jr.  
CHARLES B. MITCHELL, JR.